

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: <b>BERTI et al.</b>	Application No.: 10/661,263
Filing Date: September 12, 2003	Confirmation No.: 7788
Examiner: Chad S. Dickerson	Attorney Docket: 600.1289
Art Unit: 2625	Customer No.: 23280
Title: <b>METHOD AND DEVICE FOR OPTIMIZING A JOB CHANGE</b>	

Submitted Electronically via EFS-Web  
Mail Stop: APPEAL BRIEF – PATENTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

August 31, 2010

**APPELLANT'S REPLY BRIEF UNDER 37 C.F.R. §41.41**

Sir:

Appellants submit this Reply Brief for consideration of the Board of Patent Appeals and Interferences (the "Board") in response to the Examiner's Answer dated July 8, 2010 and in support of their appeal of the Final Office Action issued on December 29, 2009. Appellants respectfully reassert each of the arguments asserted in Appellants' Brief dated April 22, 2010 and provides herein only additional comments in response to the arguments raised in the Examiner's Answer.

No fee is believed required. If any fee is required at this time, the Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

## ARGUMENTS

### A. Independent Claim 1

Neither Zingher et al. nor Loffler, alone or in combination, discloses the step of claim 1 of “establishing an order of adjustments and maintenance operations to be carried out during the job change between the first machine job and the subsequent machine job as a function of the comparing step.” It is respectfully submitted that the Examiner’s suggestions that Zingher et al. discloses establishing an order of adjustments and maintenance operations during a job change as a function of a data comparison is completely unsupported and speculative. In Zingher et al., an ink profile is always changed from one print job to the next print job in the exact same order. This is consistent with the description at column 3, lines 8 to 15 of Zingher et al., which states:

According to the invention, provision is made in terms of the method that, in order to determine the **sequence in which the individual print jobs are carried out** one after another, the image contents belonging to the individual print jobs are compared with one another in pairs and, in so doing, the **changes which are respectively necessary to carry out** a subsequent print job with a new image content **are determined** with respect to a previous print job.

This portion of Zingher et al. unequivocally shows that only the changes between two print jobs are established, but not the order of the changes. The order of the changes is always the same. The ink profile depends on the printing form for the next print job and thus is changed after the printing form is mounted on the plate cylinder. Thus, the order of the operations is always the same and is not established as a function of comparing first data of the first machine job to second data of the subsequent machine job. The only change involves the amount of ink applied to the printing form. Accordingly, the ink profile is either increased or decreased depending on the printing form used, but the adjustment of the ink profile always occurs in the order of operations at the same point. It is respectfully submitted that the Examiner’s assertion that Zingher et al. teaches an order of adjustments and maintenance operations during a job change has absolutely no sound basis. Zingher et al. only teaches changing the order of print jobs to save time, but does not teach changing or establishing the order of adjustments and maintenance operations during a job change to save further time. Zingher et al. only seeks to minimize the number of adjustments and maintenance operations, but does not in any way relate to optimizing the **order** of adjustments and maintenance operations. Similarly, the order of the adjustments and maintenance operations is also always the same in Loffler between two subsequent print jobs

because the order with respect to adjusting ink metering elements and ink duct rollers is always the same. Thus, absolutely no combination of Zingher et al. and Loffler discloses the “establishing” step of claim 1.

The Examiner attempts to rely on column 3 of Zingher et al. as disclosing the “establishing” step by alleging that minimizing the number of working steps during a plurality of job changes corresponds to establishing and order of adjustments and maintenance operations between a first machine job and a subsequent machine job. At page 40 of the Examiner’s Answer, the Examiner alleges:

A single or several steps can happen when transitioning from one job to another. The number of steps chosen between jobs creates an arrangement or order, that can be considered as an order of adjustment and maintenance operations since the system may choose to only adjust ink profile, to adjust the inking unit film thickness gradient, or both for transitioning from one job to the next.

It is respectfully submitted that the Examiner’s interpretation of the claim language and Zingher et al. is completely unreasonable, particularly when construed in light of the specification. (*Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (“The Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction ‘in light of the specification as it would be interpreted by one of ordinary skill in the art.’”) (citing *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004))). At paragraph [0004] of the present specification, Applicants clearly describe the order of operations in Zingher et al. as being fixed, i.e., always the same regardless of the first data of the first machine job and second data of the subsequent machine job. One of skill in the art would thus clearly not interpret “establishing an order of adjustments and maintenance operations” as including determining whether or not an adjustment operation is performed, but would instead interpret “establishing an order of adjustments and maintenance operations” as meaning establishing when each adjustment or operation to be performed is performed with respect to the other adjustments and operations to be performed. (See also, paragraph [0006]: “To this end, according to the present invention, a particularly favorable order of the operations to be carried out during the job change is established using the control computer and the data of the print jobs and communicated to the operating personnel as required. Thus, there is no need for the operating personnel to follow

rigid procedures as in the prior art, or to think themselves about the best order in which to carry out the required operations.”)

Reversal of the rejection under 35 U.S.C. 103(a) of claim 1 and its dependent claims is respectfully requested.

1. Dependent Claim 19: Argued Separately

Neither Zingher et al. nor Loffler, alone or in combination, discloses the limitations of claim 19 that the step of establishing an order of adjustments and maintenance operations to be carried out during a job change as a function of the comparing step includes “identifying adjustments and maintenance operations to be carried out during the job change between the first machine job and the subsequent machine job and then determining when the adjustments and maintenance operations are to be carried out with respect to one another during the job change as a function of the comparing step.” (emphasis added). The Examiner’s allegation that embodiment 1A, 1B and 1C of Loffler reads on claim 19 “since these embodiments disclose determining which step will occur before a certain number of printing revolutions to be performed after the actuation of the vibrator roller, printing elements or both” fails to address the language of claim 18 as a whole. (Examiner’s Answer, page 42). Loffler clearly does not teach “identifying adjustments and maintenance operations to be carried out during the job change ...then determining when the adjustments and maintenance operations are to be carried out with respect to one another during the job change” as required by claim 19 because the adjustments and maintenance operations are also always carried out in the same order with respect to one another during a job change in Loffler. The Examiner completely fails to address that in claim 19 the “then determining” comes after the “identifying.”

Reversal of the rejection under 35 U.S.C. 103(a) of claim 19 is respectfully requested.

2. Dependent Claim 20: Argued Separately

Neither Zingher et al. nor Loffler, alone or in combination, discloses the limitation of

claim 20 that the step of establishing an order of adjustments and maintenance operations to be carried out during a job change as a function of the comparing step includes “determining which steps can be performed concurrently and which steps must be performed consecutively.” The Examiner alleges in the Examiner’s Answer, at page 43, that Loffler teaches the limitations of claim 20 because Loffler mentions that several steps may be performed in an accelerated removal of a current ink profile. The Examiner still completely fails to address the language of claim 20 and fail to articulate any reason why claim 20 would have been obvious to one of skill in the art in view of Zingher et al. and Loffler. The Examiner does not address the requirement of claim 20 that “determining which steps can be performed concurrently and which steps must be performed consecutively” is performed as a function of the comparing step. Thus, because the Examiner has not established a prima facie case of the obviousness of claim 20 in view of Zingher et al. and Loffler, claim 20 is not unpatentable as obvious in view of these references. Furthermore, simply because a current ink profile is removed as a new ink profile is established in no way indicates that there is a determination concerning which of the actual steps regarding the ink profile can be performed concurrently and which steps must be performed consecutively. Loffler does not disclose that such a determination is involved and the Examiner’s statements that Loffler discloses such a determination are completely speculative (as evidenced by the Examiner’s use of “should”) and not supported by Loffler.


For this additional reason, reversal of the rejection under 35 U.S.C. §103(a) of claim 20 is respectfully requested.

**CONCLUSION**

It is respectfully submitted that the application is in condition for allowance. Favorable consideration of this Reply Brief is respectfully requested.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By:   
William C. Gehris, Reg. No. 38,156

Davidson, Davidson & Kappel, LLC  
485 Seventh Avenue  
New York, New York 10018  
(212) 736-1940